

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 1502666 (JNE/FLN)

This Document Relates to:

PLAINTIFF

HEATHER CLEMMONS

VS.

**3M COMPANY AND ARIZANT
HEALTHCARE, INC.**

Civil Action No. 0:20-cv-00495

Plaintiff, by and through undersigned counsel and pursuant to Rule 25 of the Federal Rules of Civil Procedure and Pretrial Order #23, hereby informs this Court of the death of Plaintiff, Heather Clemmons, and in support thereof says:

1. On February 20, 2020, the Court entered an order staying this case (Doc. 7).
2. On May 15, 2021, while the stay was still in place, Plaintiff Heather Clemmons died.
3. On November 22, 2021, the Court entered an order lifting the stay in this, and other Cases. (Doc. 9).
4. On December 28, 2021, Plaintiff Heather Clemmons's mother, Deadra Brown, called and informed Plaintiff's attorneys that Plaintiff Heather Clemmons had died.
5. Plaintiff's attorneys file this Suggestion of Death within ninety days of the lifting of the of the stay in this case.

6. In Texas, the heirs of a decedent may bring a survival action if there is no administration pending and none is necessary. *Shepherd v. Ledford*, 962 S.W.2d 28, 31 (Tex. 1998). The heirs can also bring a survival action by showing that the interest of the estate requires immediate action and there is no representative qualified to act. *Izard v. Townsend*, 208 S.W.2d 666, 668 (Tex. Civ. App. - - Galveston 1943).

7. Plaintiff Heather Clemmons died intestate and unmarried. Therefore, her sole heir is her only child Joshua Reed. Tex. Est. Code 201.001(b). Joshua Reed is the proper party under the authorities discussed above.

8. The Texas Civil Practices and Remedies Code provides that “A cause of action for personal injury to the health, reputation, or person of an injured person does not abate because of the death of the injured person. Tex. Civ. Prac. & Rem. Code 71.021.

9. In addition to a survival cause of action, Texas also provides for a wrongful death cause of action to the parents, spouse and children of the decedent. Tex. Civ. Prac. & Rem. Code 71.004. Plaintiff Heather Clemmons was unmarried at the time of her death. The name of her father is Calvin Clemmons. The name of her mother is Deadra Brown. As discussed above, the name of her only child is Joshua Reed.

Dated: February 18, 2022

Respectfully submitted,
Houssiere, Durant & Houssiere, LLP by
/s/Randal Kauffman-
Charles R. Houssiere, III
Attorney in Charge
Texas Bar No. 10050700
choussiere@HDHtex.com
Randal A. Kauffman
Texas Bar No. 11111700
rkauffman@HDHtex.com
1990 Post Oak Blvd., Suite 800
Houston, Texas 77056-3812
Telephone: (713)626-3700
Facsimile: (713)626-3709
ATTORNEYS FOR PLAINTIFF
HEATHER CLEMMONS

Certificate of Service

I certify that on February 18, 2022, the forgoing Suggestion of Death was filed electronically by using the CM\ECF system which will deliver the document to all counsel of record.

/s/Randal Kauffman-
Randal A. Kauffman